

EU232559975



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No. 10/821,424
Filing Date April 9, 2004
Priority Date April 12, 2003
5 Inventorship Pangrle
Group Art Unit..... 2837
Examiner J. Donels
Attorney's Docket No. BJP-001US
Title: Virtual Instrument
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

UNDER 37 CFR §1.97(d) (w/FORM PTO/SB/08a)

15 SUBMITTED CONCURRENTLY WITH PAYMENT OF ISSUE AND
PUBLICATION FEES AND
REQUEST FOR SUBSTITUTE COVER PAGE DRAWING

20 To: Mail Stop: ISSUE FEE
Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

25 From: Brian J. Pangrle
1312 South Maple Street
Spokane, WA 99204

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REMARKS

A Patent Cooperation Treaty (PCT) International Search Report (ISR) and Written Opinion (WO) was mailed by the International Search Authority (ISA) on March 15, 2006. Applicant received the ISR/WO on March 18, 2006.

- 5 Applicant hereby submits a Supplemental Information Disclosure Statement to cite the ISR/WO of the ISA. USPTO form PTO/SB/08a (08-03) is attached hereto, which includes a Certification Statement under §1.97(d),(e). Payment of the fee under §1.17(p) is also enclosed.

10 ISR of the ISA

The ISR of the ISA reports a search of US Classes 84/600, 723, 724, 735 and 737. The ISR lists only one document: US Patent No. 5,913,260 to Buchla ("Buchla reference").

15 Summary

- The Buchla reference was already cited and considered in the pending application. While the WO of the ISA with respect to this reference "in no way binds the designated and/or elected Offices to adopt a similar interpretation" (PCT Guidelines at Chapter 1, ¶1.03), for purposes of clarity, Applicant provides
- 20 brief comments as to the WO along with a concise explanation the Buchla reference under 37 CFR §1.98(3)(i). Applicant submits that the WO is in error with respect to the cited reference.

History of Applications

- 25 Applicant filed a PCT application on April 12, 2004 claiming priority to the instant US non-provisional utility application (filed April 9, 2004) and to two US provisional applications (filed April 12, 2003 and May 16, 2003). Applicant filed the US non-provisional application with claims 1-20, now allowed, which include independent claims 1, 5 and 12. Applicant filed the PCT application with claims
- 30 1-19, which include independent claims 1 and 10. Claims 1 and 12 of the US

non-provisional application are identical to claims 1 and 10, respectively, of the PCT application.

Buchla Reference Already Cited and Considered in US

5 On July 6, 2004, Applicant submitted an IDS listing the Buchla reference. As indicated in the file history, the Buchla reference was considered by the Examiner during examination of the instant US application (see file history: "List of references submitted by applicant and considered by examiner", dated September 28, 2005).

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Comment on WO and Concise Explanation of Buchla under 37 CFR §1.98(3)(i)

The WO of the ISA comments on Novelty and Inventive Step, which are discussed below with a concise explanation of the Buchla reference.

15 Novelty:

The WO of the ISA states: "Claims 1-19 lack novelty under PCT Article 33(2) as being anticipated by Buchla (5,913,260)". Applicant disagrees and believes this statement is in error as being unsupported by evidence.

20 The PCT Guidelines at Chapter 12, ¶12.01, set forth the meaning of novelty: "the invention, as defined by a claim, lacks novelty if every element or step is explicitly or inherently disclosed within the prior art". Based on this definition, Applicant submits that the claimed subject matter of the PCT application claims 1-19 is not disclosed within the Buchla reference.

25 *Concise Explanation of the Buchla Reference*

30 The Buchla reference is entitled "System and Method for Detecting Deformation of a Membrane" and solves a membrane deformation detection problem. As shown in Figs. 2 and 3 of the Buchla reference, this problem is solved by using an emitter (200) to emit incident light on a reflective surface of a membrane (202) and a detector (206) that detects light reflected by the reflective surface where the reflective surface scatters the light when an impact

or pressure (204) is applied to the other surface of the membrane (i.e., opposite the reflective surface). Further, "the emitter 200 and the detector 206 are within an opaque structure 208 underneath membrane 202 such that, e.g., ambient light, does not interfere with the measurement" (col. 4, lines 62-65).

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Claim 1

Claim 1 of recites, in part, "*an emitter to emit radiation as a fan-beam substantially parallel to a head of a drum*" and "*a substantially arcuate array of detectors positioned to detect radiation emitted by the emitter, each detector responsive to a decrease in radiation caused by an object interrupting a radiation path between the emitter and the detector*".

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Thus, contrary to the WO of the ISA, the Buchla reference does not disclose the subject matter of independent claim 1. Applicant submits that the subject matter of the method claim 10 of the PCT application (claim 12 of the US application) is not disclosed either. Applicant submits that the WO of the ISA is in error.

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Inventive Step:

The WO of the ISA also states that claims 1-19 lack an inventive step; however, no reasons are given as to why they lack an inventive step. The PCT Guidelines (Appendix to Chapter 13, ¶13.08.1) recommend a "Problem-Solution Approach" to determining the lack of an inventive step that involves "considering whether or not the claimed invention, starting from the closest prior art and the objective technical problem would have been obvious to the skilled person".

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As already mentioned, the Buchla reference solves a membrane deformation detection problem by using an emitter (200) to emit incident light on a reflective surface of a membrane (202) and a detector (206) that detects light reflected by the reflective surface where the reflective surface scatters the light when an impact or pressure (204) is applied to the other surface of the

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membrane (i.e., opposite the reflective surface) where "the emitter 200 and the detector 206 within an opaque structure 208 underneath membrane 202 such that, e.g., ambient light, does not interfere with the measurement" (col. 4, lines 62-65).

5 Given the "claimed invention", "the closest prior art" and "the objective technical problem", per the PCT Guidelines, Applicant submits that the conclusion of the WO of the ISA is in error with respect to claims 1-19 lacking an inventive step.

10 Conclusion

 Applicant respectfully requests consideration of the instant Supplemental IDS. Claims 1-20 are pending and believed to be in condition for allowance. Applicant respectfully requests prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the application,
15 the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

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Respectfully Submitted,
Brian Pangre
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Dated: 3-20-06



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PTO/SB/08a (08-03)

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Not for submission under 37 CFR 1.99)

Application Number 10821424

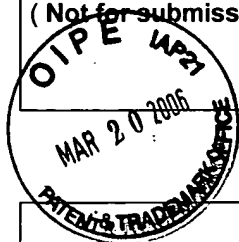
Filing Date 2004-04-09

First Named Inventor Brian J. Pangre

Art Unit 2837

Examiner Name J. Donels

Attorney Docket Number BJP-001US

**U.S. PATENTS**

Examiner Initial*	Cite No	Patent Number	Kind Code ¹	Issue Date	Name of Patentee or Applicant of cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**
(Not for submission under 37 CFR 1.99)

Application Number	10821424
Filing Date	2004-04-09
First Named Inventor	Brian J. Pangrle
Art Unit	2837
Examiner Name	J. Donels
Attorney Docket Number	BJP-001US

1	International Search Report and Written Opinion from International Search Authority of US under the Patent Cooperation Treaty for corresponding PCT application (PCT/US2004/011143), mailed March 15, 2006.	<input type="checkbox"/>
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EXAMINER SIGNATURE

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.

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STATEMENT BY APPLICANT**
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Attorney Docket Number	BJP-001US

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

- ☒ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.

OR

- ☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement.


- ☐ See attached certification statement.

- ☒ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

- ☐ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature		Date (YYYY-MM-DD)	2006-03-20
Name/Print	Brian J. Pangre	Registration Number	42,973

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**